

SFUND RECORDS CTR

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SFUND RECORDS CTR

0217-00648

The Goodyear Tire & Rubber Company

Akron, Ohio 44316 - 0001

CORPORATE ENGINEERING

November 27, 1991

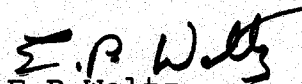
USEPA, Region IX
Mr Craig Cooper
Remedial Project Manager
75 Hawthorne Street
San Francisco, CA 94105

Dear Craig:

Per your request, enclosed is a copy of the access agreement from the City of Phoenix.

Even though it is dated 11/7/91 it was received by me 11/25/91.

Sincerely,



E P Waltz
Project Manager
Environmental Engineering

GOODYEAR

PHOENIX-GOODYEAR MUNICIPAL AIRPORT

ACCESS AGREEMENT NO. 56130

This Access Agreement (this "Agreement") made and entered into on this 17th day of November, 1991, by and between the City of Phoenix, a chartered Arizona municipal corporation acting through its Aviation Director, hereinafter referred to as "Grantor," and The Goodyear Tire & Rubber Company, an Ohio corporation, the principal place of business of which is located at 1144 East Market Street, Akron, Ohio 44316-0001, hereinafter referred to as "Goodyear."

W I T N E S S E T H

WHEREAS, the Phoenix City Council on June 6, 1990, adopted Ordinance S-19421 authorizing the City Manager to enter into an access agreement with Goodyear based upon certain terms and conditions; and

WHEREAS, the parties desire to enter into this Agreement to facilitate Goodyear's implementation of a remedial action at the Phoenix-Goodyear Airport ("PGA") Superfund Site;

NOW, THEREFORE, in consideration of the right to use certain airport properties (hereinafter referred to as the "Demised Premises") and the covenants herein set forth, and other good and valuable consideration mutually agreeable to Goodyear and Grantor, the parties make the following Agreement.

ARTICLE I

DEFINITIONS

As used in this Agreement, the terms set forth herein shall have the following meaning:

A. "Airport" shall mean the Phoenix-Goodyear Municipal Airport.

B. "Aviation Director" shall mean the Chief Administrative Official of the City of Phoenix Aviation Department, or his designated representative.

C. "Consent Decree" shall mean the consent decree entered on October 31, 1988 in connection with United States v. Goodyear Tire & Rubber Co., Case No. CIV 88 1443 PHX EHC, United States District Court, District of Arizona, and any amendments thereto or superseding or supplemental consent decrees.

D. "F.A.A." shall mean the Federal Aviation Administration.

ARTICLE II

PREMISES AND PRIVILEGES

A. Description. Grantor hereby grants to Goodyear for Goodyear's non-aeronautical use that certain property located on the airport premises in the City of Goodyear, Maricopa County, Arizona, more particularly described on the Exhibit 1 "as built" drawings attached hereto. The parties acknowledge that Goodyear's remediation activities may require treatment facilities locations other than locations delineated on

Exhibit 1. The location of future treatment facilities will be mutually agreed to based upon the following criteria:

1. The change will not cause a violation of any F.A.A. regulation or order.
2. The change will not cause Grantor to be in violation of any Federal or State Grant Assurance.
3. The change will not cause a safety hazard to users of the Airport.
4. The change will not render then-existing buildings or structures to be unusable in whole or in part.

Without limiting the generality of the grant under this Agreement, Goodyear and its agents, servants, contractors and invitees are entitled to utilize the Demised Premises in order to comply with the Consent Decree, to emit into the air above the Demised Premises any emissions incidental or attributable to its activities conducted for such purposes, and to reinject treated water in compliance with applicable laws and regulations. Notwithstanding the foregoing, it shall not be a breach of this Agreement by Goodyear to allow the United States of America and the State of Arizona and their respective authorized representatives and contractors to enter upon the Demised Premises to undertake activities permitted by the Consent Decree. Nothing herein shall be construed as a waiver to any claim, action or right which Grantor may have with respect to (1) the disposition of treated groundwater by sale, exchange or by any

other means other than reinjection under the Airport premises; and (2) any activity or omission by Goodyear which causes Grantor to be in noncompliance with any applicable Federal or State statute, regulation or order, Federal or State Grant Assurance, or any bond covenant.

B. Privileges. Grantor hereby grants Goodyear the following general privileges, uses and rights, all of which are subject to the terms, conditions and covenants hereinafter set forth and all of which are non-aeronautical uses of the Airport:

1. The right of ingress and egress from the Demised Premises in, over, across, under and through designated Airport property and roadways serving the Airport, to be utilized by Goodyear, its agents, servants, patrons, contractors and invitees, and by the United States of America and the State of Arizona and their respective authorized representatives and contractors, subject to the applicable ordinances, rules and regulations now in effect or that may hereafter be applicable. Without limiting the generality of the right of ingress and egress granted in the previous sentence, ingress and egress shall be for the purpose of conducting any activity required by the Consent Decree, including but not limited to the monitoring of progress of activity occurring on the Demised Premises, verifying data or information submitted to the United States Environmental Protection Agency ("EPA") or the State of Arizona, investigating contamination at or near the Site (as defined in the Consent

Decree), and inspecting and copying records, operating logs, contracts or other documents utilized to assess Goodyear's compliance with the Consent Decree.

2. Goodyear shall use the Demised Premises and all improvements it constructs thereon for the operation of soil vapor extraction and groundwater treatment systems and related facilities and such other facilities needed to perform Goodyear's obligations under the Consent Decree. Goodyear shall commit no waste or damage to the Demised Premises or Airport property, normal wear and tear excepted. Goodyear will undertake no action or activity which will prejudice Grantor's surface or groundwater rights, if any.

C. Limitation. Goodyear recognizes that Grantor is required to maintain and operate the Airport without unreasonable limitation or interference from Goodyear's activities which are in conformance with the Consent Decree. In conducting its remedial activity, Goodyear shall not cause Grantor to be in noncompliance with any applicable Federal statute, regulation(s), grant assurance(s), or applicable bond covenants.

D. Condition of Premises. The Demised Premises are available to Goodyear in "as is" unimproved condition; provided, however, that Goodyear may use any wells existing on the Demised Premises and any utility service connection on the Demised Premises, and may cause, at its sole expense, any utility not available on the Demised Premises to be brought to the Demised

Premises for use by Goodyear or its agents, servants, patrons, contractors and invitees.

ARTICLE III

TERM

Subject to earlier termination as hereafter provided, the term of this Agreement shall be on a month-to-month basis, commencing on the date of full execution hereof, and continuing until Goodyear receives written confirmation from EPA and the State of Arizona that remedial work has been completed to the extent required by the Consent Decree.

ARTICLE IV

IMPROVEMENTS

A. Authorization. Goodyear may install wells and related improvements upon the Demised Premises, as it determines in its sole discretion necessary or advisable to comply with the Consent Decree, provided that Goodyear shall consult with Grantor regarding the location of any such improvements and wells in order to minimize, to the extent consistent with the requirements of the Consent Decree, the impact on Grantor's future development of the Airport. Before submitting plans for improvements or alterations to any Federal or State agency having jurisdiction thereof, Goodyear shall submit plans and specifications therefore to Grantor. Grantor shall have thirty (30) days thereafter to either approve, or identify such modification to the location of improvements or wells it considers necessary to meet Grantor's

satisfaction and/or requirements; otherwise the plans will be deemed approved as submitted. Upon the completion of any improvement or alterations, Goodyear shall furnish the Aviation Director with two (2) complete sets of detailed plans and specifications of the work as completed. Prior to commencing construction of any improvements or alterations, Goodyear shall notify Grantor thereof in writing ten (10) days in advance thereof, and Grantor shall have the right to enter and post and maintain notices of nonresponsibility upon the Demised Premises. Goodyear shall furnish any additional information Grantor may reasonably find necessary to determine the safety of the facility and its compatibility with use of the Airport for aviation and other transportation purposes.

B. Description of and Conditions Upon Goodyear's Improvement. Goodyear acknowledges that Grantor is entering into this Agreement with the understanding and upon each of the following conditions and representations:

1. Description. Improvements that have been or are to be constructed on the Demised Premises by Goodyear will include but are not limited to certain improvements as delineated on plans approved by the Aviation Director and attached hereto as Exhibit 1.

2. Workmanship. All construction by Goodyear will be performed in a good workmanlike manner and must comply with applicable City of Goodyear and City of Phoenix ordinances and

building codes. In the event of a conflict between the applicable ordinances or codes of the two Cities, the ordinance and codes of the City of Goodyear shall prevail. Goodyear shall pay for materials and labor as may be required by Federal, State, or local law.

3. Construction. No construction of improvements by Goodyear shall commence before a site plan has been submitted to the Aviation Director. In addition, Goodyear must obtain F.A.A. approval under 14 C.F.R. Part 77.

4. Zoning. Goodyear shall, upon commencement of any construction, comply with applicable Ordinances, then in effect, relating to airport zoning.

5. Safety and F.A.A. Modifications. The Aviation Director may require modifications to facilities of Goodyear deemed necessary by the F.A.A. for the safety of air navigation. In the event the F.A.A. at any time requires the modification or relocation of any air navigation facility made necessary solely as the result of Goodyear's activities conducted on the Demised Premises, Goodyear shall pay the cost of such modification or relocation.

ARTICLE V

FORCE MAJEURE

In the event Grantor or Goodyear shall be prevented or unable to perform any act required by this Agreement by reason of acts or determinations of Federal, State or Local governments, or

fire, earthquake or similar acts of God, strikes, labor disputes or any other reason of a like nature beyond their control, then the time for performance of such act shall be extended for a period equivalent to the period of delay; provided, however, that no such delay shall exceed ninety (90) days unless approved by the Aviation Director; otherwise, this Agreement shall terminate.

ARTICLE VI

ASSIGNMENT, SUBLETTING AND ENCUMBRANCES

Goodyear shall not assign or transfer all or any portion of its interest under this Agreement, nor permit any other person, firm or corporation to occupy the Demised Premises without the prior written consent of the Aviation Director. For purposes of this Article, any transfer or sharing of control of Goodyear's interest under this Agreement is considered to be an assignment of interest.

Grantor as a condition of approval may require that any transferee submit biographical and financial information. The Aviation Director shall within thirty (30) days from the date he receives a request, and any additional information, approve or deny same; otherwise, the request will be deemed approved. Notwithstanding the foregoing, Goodyear shall upon prior notification to Grantor be free to assign its interest to a successor firm or corporation by virtue of a merger or sale of stock or assets; provided, however, that Goodyear shall not be

relieved of its obligation(s) hereunder until a successor in interest expressly assumes said obligation(s) in writing.

ARTICLE VII

CANCELLATION BY GRANTOR

A. Grantor may cancel this Agreement by giving Goodyear thirty (30) days prior written notice of the termination upon the occurrence of one or more of the following events:

1. The taking or condemnation of all or substantially all of the Demised Premises for a period of thirty (30) days or more for any public or quasi-public purpose pursuant to lawful authority of any legislative act, resolution, rule, order or decree of any court of or any board, agency, or office of a governmental entity (other than Grantor or EPA).

2. The appointment of a receiver, trustee or liquidator for the assets of Goodyear.

3. The assertion of any lien or claim for quantum meruit against the Demised Premises because of any act or omission of Goodyear which is not discharged or contested by Goodyear in good faith by proper legal proceedings within thirty (30) days of receipt of actual notice by Goodyear.

4. The failure or refusal of Goodyear to observe or perform any of the covenants, terms and conditions of this Agreement to be observed or performed by Goodyear in this Agreement and the failure shall continue for a period of more than sixty (60) days after receipt of written notice from Grantor

specifying the nature of the default; provided that the 60-day period shall be extended for such additional periods of time as may be reasonably necessary to cure such default; provided, further, that Goodyear has undertaken reasonable efforts to cure such default within the 60-day period. In the event that any default shall be cured in the manner provided herein, Goodyear's rights hereunder shall be reinstated as if such default had not occurred.

5. The voluntary abandonment by Goodyear of its activities at the Airport for a period of thirty (30) days or more.

B. No waiver by Grantor of a default by Goodyear in performance of any requirements of this Agreement shall be construed to be or act as a waiver of any subsequent default in performance of the same or any other requirement.

ARTICLE VIII

CANCELLATION BY GOODYEAR

A. Goodyear may cancel this Agreement at any time that it is not in default in its obligations by giving Grantor thirty (30) days prior written notice of the termination upon the occurrence of any one or more of the following events which materially impairs the conduct of Goodyear's required activity on the Demised Premises:

1. Issuance by a court of competent jurisdiction of an order in any way preventing or restraining Goodyear's use of

the Demised Premises or any substantial part thereof and the remaining in force of such order for a period of ninety (90) consecutive days.

2. The inability of Goodyear to use the Demised Premises or any substantial part thereof for a period of ninety (90) consecutive days, due to the enactment or enforcement of any law or regulation or because of fire, earthquake or similar casualty, or acts of God or the public enemy.

3. The assumption by the United States Government of the operation, control or use of the Airport or any substantial part thereof for military purposes in time of war or national emergency.

4. Cancellation of this Agreement by Goodyear shall not affect the applicability of Article VI; Article XXI, Paragraph D; and Article XXII with respect to the operation and maintenance of Goodyear's improvements until such time as Grantor agrees in writing to release Goodyear from its obligations under the aforesaid provisions.

B. The provisions in Articles II and IV shall remain unaffected by cancellation or termination of this Agreement to facilitate remedial action, closure, monitoring or related activities by EPA, the Arizona Department of Environmental Quality, and/or Goodyear.

ARTICLE IX

INDEMNITY CLAUSE AND INSURANCE

A. Goodyear's Indemnity. Goodyear shall indemnify and hold harmless Grantor and its elected or appointed officials, agents, boards, commissions, employees and representatives, hereinafter referred to as the "City", from all suits, including reasonable attorneys' fees and costs of litigation, actions, loss, damage, expense, cost or claims, of any character or any nature for strict liability or arising out of or in connection with any negligent act or negligent omission of Goodyear, its agents or employees, and of any subcontractor of Goodyear, its agents and employees, in any way arising out of or resulting from any activity of Goodyear on the Demised Premises pursuant to this Agreement which results directly or indirectly in the injury to or death of any person or persons or the damage to or release of hazardous substances on any property of any person or persons, or on account of any act, claim or amount arising or recovered under Workmen's Compensation law, or arising out of the failure of Goodyear or those acting under Goodyear, pursuant to this Agreement, to conform to this Agreement or any statute, ordinance, regulation, law or court decree. In addition, Goodyear shall hold Grantor harmless against all mechanic's and materialman's liens and/or liens of a like nature, and against all reasonable attorneys' fees and other costs arising by reason of any such liens or claims for those liens and claims levied

against the Demised Premises or levied as a result of Goodyear's acts or omissions.

B. Grantor's Indemnity. Grantor shall indemnify and, to the extent permitted by law, hold harmless Goodyear and its officers, directors, agents, employees and representatives from all suits, including reasonable attorneys' fees and costs of litigation, actions, loss, damage, expense, cost or claims, of any character or any nature for strict liability or arising out of or in connection with any negligent act or negligent omission of the City (as defined herein) or its contractors or subcontractors, in any way arising out of or resulting from any activity of the City or its contractors or subcontractors on the Demised Premises pursuant to this Agreement that results directly or indirectly in the injury to or death of any person or persons or the damage to or release of hazardous substances on any property of any person or persons, or on account of any act, claim or amount arising or recovered under Workmen's Compensation law, or arising out of the failure of the City (as defined herein), acting pursuant to this Agreement, to conform to this Agreement or any statute, ordinance, regulation, law or court decree.

C. Notice of Claim. Grantor and Goodyear shall give each other prompt notice of any claim made or suit instituted which in any way directly or indirectly affects or might affect each other, and each shall have the right to compromise and defend the

same to the extent of his own interest. The indemnified party shall have the right, but not the duty, to participate in the defense of any claim or litigation with attorneys of the indemnified party's selection without relieving the indemnifying party of any obligations hereunder.

D. Ability to Respond in Damages. Goodyear shall deliver to Grantor prior to commencement of this Agreement evidence, satisfactory to Grantor, whether through self-insurance, general liability insurance or a combination thereof, of Goodyear's ability to respond in damages in an amount of not less than One Million Dollars (\$1,000,000) for liability Goodyear may incur by virtue of its occupancy or use of the Demised Premises pursuant to this Agreement. Any enumeration of specific insurance coverages and amounts shall not limit or restrict Goodyear's indemnity covenant set forth in this Agreement. In the event that Goodyear fails to satisfy the insurance requirements set forth in this Paragraph, Grantor, upon written notice to Goodyear, shall have the right to secure the required insurance at the cost and expense of Goodyear. The self-insurance or liability insurance referred to in this Paragraph shall contain a provision that written notice of cancellation or of any material change shall be delivered to the Aviation Director by the issuing company or companies thirty (30) days in advance of the effective date thereof. Goodyear shall increase the aforesaid insurance

limits upon the written demand of the Aviation Director, provided that such increases are reasonable and necessary.

E. Survival. The parties' obligations hereunder shall survive any termination of this Agreement or Goodyear's activities on the Demised Premises provided that any such acts or omissions giving rise to any cause of action shall occur during the term of this Agreement.

ARTICLE X

MAINTENANCE

Goodyear agrees at its sole cost and expense, during the term of this Agreement, that it or its designated contractors shall maintain and keep in good repair the Demised Premises and all improvements thereon and that it and they shall use the same in a prudent manner so as not to injure or damage them, except as such injury or damage may arise out of ordinary wear and tear resulting from lawful use in conformance with this Agreement. In addition, Goodyear or its designated contractors shall at all times keep the Demised Premises and improvements in a clean and orderly condition.

ARTICLE XI

QUIET ENJOYMENT

Grantor covenants, except as otherwise provided herein, that so long as Goodyear shall timely perform its obligations described herein and conditions to be performed hereunder,

Goodyear shall peaceably have and quietly enjoy the Demised Premises and the privileges granted herein.

ARTICLE XII

SURRENDER OF POSSESSION

Upon the expiration or other termination of this Agreement, or any extension thereof, Goodyear's right to occupy the Demised Premises and exercise the privileges herein granted shall cease, and it shall surrender the same and leave Goodyear's improvements and modifications to the Demised Premises in good condition, as herein defined, except for normal wear and tear. Unless otherwise provided, all trade fixtures, equipment and other personal property installed or placed by Goodyear on the Demised Premises shall remain the property of Goodyear, and Goodyear shall have the right at any time during the term of this Agreement, and for an additional period of thirty (30) days after its expiration, to remove the same from the Demised Premises, provided that Goodyear shall repair any damage caused by such removal. Any property not removed by Goodyear within the 30-day period may be removed by Grantor at Goodyear's expense or the property shall become a part of the Demised Premises at Grantor's option and title thereto shall vest in Grantor.

For purposes of this Article XII, "good condition" shall mean the Goodyear's improvements and modifications to the Demised Premises shall:

1. Not be damaged or in a state of disrepair.

2. Not contribute to or cause a violation of any law or regulations.
3. Not constitute a nuisance or cause or contribute to property damage or environmental contamination.

ARTICLE XIII

INSPECTION BY GRANTOR

Upon reasonable notice to Goodyear, Grantor may enter upon the Demised Premises at reasonable times for any purposes necessary, incidental to, or connected with the exercise of its governmental functions, including to determine Goodyear's compliance with this Agreement and for fire protection or security purposes. Grantor shall not unreasonably interfere with the activities of Goodyear or its agents or contractors during the course of such entry.

ARTICLE XIV

NOTICE

All notices, consents, approvals, and agreements required or permitted to be given to Grantor and Goodyear under this Agreement shall be given to such party in writing, either personally or by sending a copy thereof by first-class, certified or registered mail, postage prepaid, return receipt requested, or by Federal Express or other similar overnight courier service that provides a delivery receipt, charges prepaid, or by facsimile transmission, to the following address (or such other

address as the parties hereto may from time to time specify in writing):

If to Grantor, to:

City of Phoenix Aviation Department
3400 Sky Harbor Boulevard
Phoenix, Arizona 85034-4420
Attention: Airports Business & Properties Office

If to Goodyear, to:

Manager
Corporate Environmental Engineering
Department 110-D
The Goodyear Tire & Rubber Company
1144 East Market Street
Akron, Ohio 44316

Personally delivered notices shall be deemed given at the time they are delivered at the address of the named recipient; notices sent by mail or overnight courier service shall be deemed given at the time they are deposited in a post office box regularly maintained by the United States Postal Service or deposited with the courier; and notices sent by facsimile shall be deemed given at the time of transmission.

ARTICLE XV

PARAGRAPH HEADINGS

Article, paragraph and subparagraph headings contained in this Agreement are inserted solely for the convenience of the parties, shall not be deemed to be a part of this Agreement for any purpose, and shall not in any way define or limit the meaning, construction or scope of any of the express provisions hereof.

ARTICLE XVI

SALE AND PROPERTY TAXES

Goodyear shall pay any leasehold tax, sales tax, transaction privilege tax, real property tax or other exaction assessed or assessable as the result of its occupancy of the Demised Premises or conduct of activities at the Airport under authority of this Agreement, including any such tax payable by Grantor.

ARTICLE XVII

SAVINGS PROVISION

Should any provision of this Agreement be declared invalid by a court of competent jurisdiction, the remaining terms shall remain effective, provided that elimination of the invalid provision does not materially prejudice either Grantor or Goodyear with regard to their respective rights and obligations.

ARTICLE XVIII

SUCCESSORS AND ASSIGNS BOUND

All the provisions of this Agreement shall bind and inure to the benefit of the parties hereto, and their respective legal representatives, successors and assigns.

ARTICLE XIX

APPROVALS, CONSENTS AND NOTICES

All approvals, consents and notices called for in this Agreement must be in writing and may not be established by oral testimony. Any such approvals or consents will not be unreasonably delayed or withheld; provided, however, that where

specific time limits or standards for review are provided herein, those time limits or standards shall govern.

ARTICLE XX

ATTORNEYS' FEES

In the event of litigation between Grantor and Goodyear to enforce the rights or obligations provided by this Agreement, the nonprevailing party shall pay for the prevailing party's reasonable attorneys' fees and costs of litigation as may be determined by the court.

ARTICLE XXI

RULES AND REGULATIONS

A. General. Goodyear shall observe and comply with all laws, ordinances, rules and regulations of the United States Government, the State of Arizona, the County of Maricopa and the City of Phoenix and all agencies thereof, which may be applicable to its operation on the Demised Premises; and further, Goodyear will display to Grantor any required permits, licenses, or other evidence of compliance with such laws upon request.

B. Federal Requirements. Without limiting any other conditions set forth elsewhere in this Agreement, Goodyear shall comply with any applicable requirements more particularly set forth in Exhibit 2 attached hereto and incorporated herein by this reference.

C. Environmental Requirements. Goodyear shall observe and comply with all applicable laws, rules, and regulations

concerning the handling and disposal of Hazardous Materials (F.A.R. Part 139), and all applicable environmental protection requirements under RCRA (42 U.S.C. §§ 6901 et seq.), CERCLA (42 U.S.C. §§ 9601 et seq.) and comparable State laws.

D. Closure, Monitoring, Reporting Requirements. Upon termination of this Agreement, Goodyear shall comply with all laws or regulations that apply to the cessation of Goodyear's activities on the Demised Premises including but not limited to any closure, capping of wells, monitoring, and reporting requirements.

ARTICLE XXII

GOVERNING LAW

This Agreement shall be governed by and construed in accordance with the laws of the State of Arizona. Any legal action concerning the enforcement, breach or interpretation of this Agreement shall be brought only in the Superior Court of Arizona, Maricopa County, or the United States District Court located in Phoenix, Arizona.

ARTICLE XXIII

RECORDING OF ACCESS AGREEMENT OR MEMORANDUM

Goodyear, in its sole discretion, may record this Agreement or a memorandum of the same in the Official Records of Maricopa County, Arizona. Grantor shall cooperate in any effort to do so, including executing any document necessary for such recording. Upon termination of this Agreement, Goodyear shall execute a

release thereof in recordable form which shall include a representation that it has not caused any environmental condition on the Airport premises and/or any contiguous property during the course of its performance under this Agreement which, under the state of the law as it exists at the time of release, provides a basis for remedial clean-up activity contemplated by any future consent decree.

ARTICLE XXIV

TRANSACTIONAL CONFLICTS OF INTEREST

Goodyear hereby acknowledges that this Agreement is subject to cancellation by the City of Phoenix pursuant to the provisions of Section 38-511, Arizona Revised Statutes.

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be executed as of this 17th day of November, 1991. Execution by the City is subject to formal approval by the Council of the City of Phoenix.

APPROVED AS TO FORM:

CITY OF PHOENIX, ARIZONA

Frank A. Fairbanks, City Manager

By: Philip M. Haggerty
ACTING City Attorney

By: Neilson A. Bertholf, Jr.
Aviation Director

ATTEST:

By: Vicky Miel
Vicky Miel, City Clerk

THE GOODYEAR TIRE & RUBBER COMPANY,
an Ohio corporation

ATTEST:

By: W. B. Hirsch
W. B. Hirsch

By: W. A. Jenkins
Assistant Secretary

Title: Vice President

STATE OF ARIZONA)
) ss:
COUNTY OF MARICOPA)

The foregoing instrument was acknowledged before me this
5 day of November, 1991 by Neilson A. Bertholf, Jr., Aviation
Director of the City of Phoenix, Arizona, a municipal
corporation, on behalf thereof.

Sharon F. Wiegel
Notary Public

My Commission Expires:

My Commission Expires Aug. 31, 1994

STATE OF ARIZONA)
) ss:
COUNTY OF MARICOPA)

The foregoing instrument was acknowledged before me this
7th day of November, 1991 by Vicky Miel, the City Clerk
of the City of Phoenix, Arizona, a municipal corporation, on
behalf thereof.

Deborah Paglia
Notary Public

My Commission Expires:

My Commission Expires March 21, 1994

STATE OF OHIO)
) ss:
COUNTY OF SUMMIT)

The foregoing instrument was acknowledged before me this
1st day of October, 1991 by W B Brock, an
VP of The Goodyear Tire & Rubber Company, an
Ohio corporation, on behalf of the corporation.

Norma Kay Fricker
Notary Public

My Commission Expires:

NORMA K. FRICKER, Notary Public
Residence - Summit County
State Wide Jurisdiction, Ohio
My Commission Expires Sept. 3, 1996

STATE OF OHIO)
) ss:
COUNTY OF SUMMIT)

The foregoing instrument was acknowledged before me this
1st day of October, 1991 by H A Jenkins,
the Secretary of The Goodyear Tire & Rubber Company, an Ohio
corporation, on behalf of the corporation.

Norma Kay Fricker
Notary Public

My Commission Expires:

NORMA K. FRICKER, Notary Public
Residence - Summit County
State Wide Jurisdiction, Ohio
My Commission Expires Sept. 3, 1996

EXHIBIT " 1 "

NOTE:

COORDINATE SYSTEM SHOWN IS GRID
BASED ON ARIZONA STATE PLANE
COORDINATE SYSTEM.
SCALE FACTOR = 0.9998783

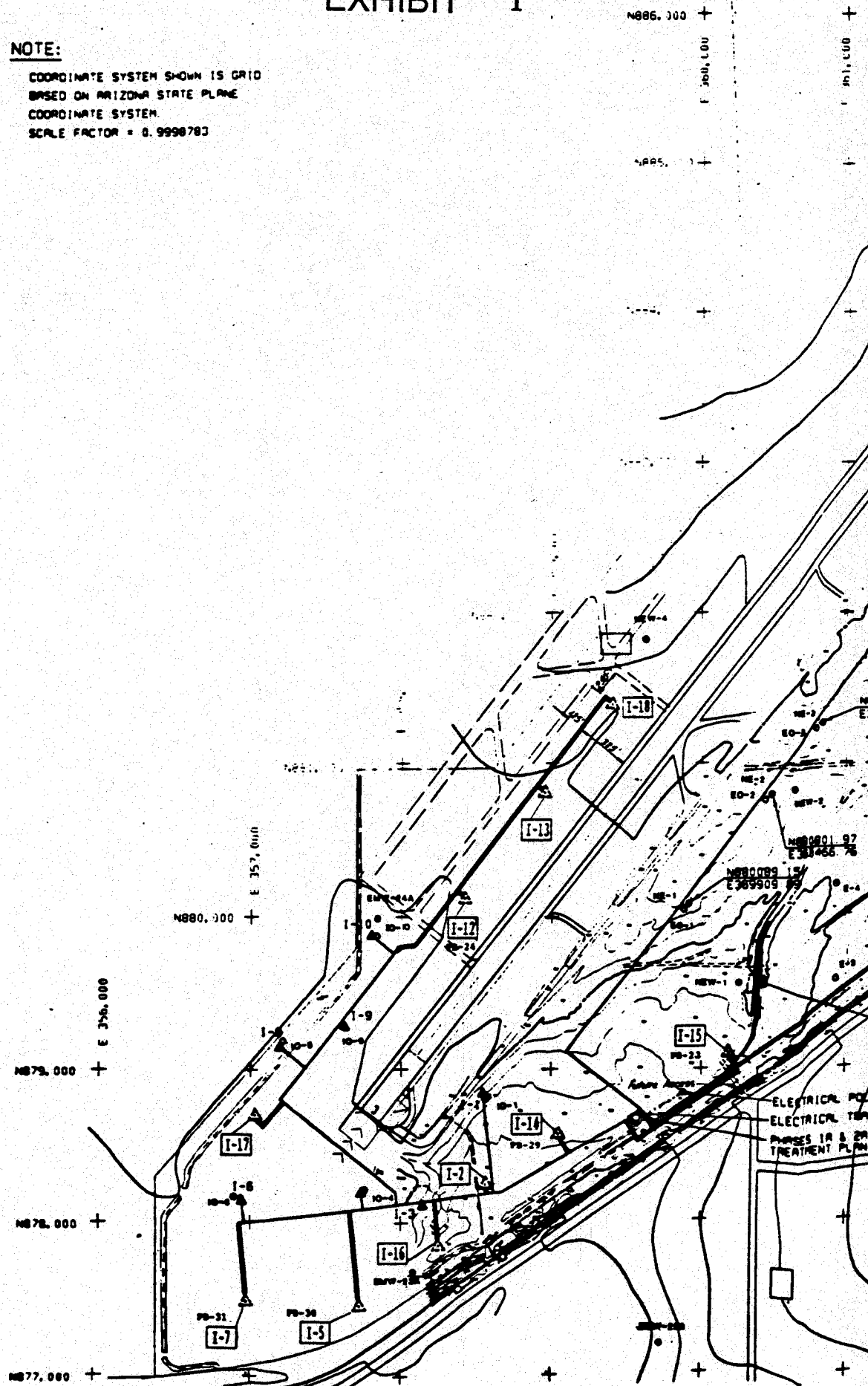


EXHIBIT "2"

I. FEDERAL GRANT ASSURANCE CONTRACTUAL PROVISIONS

1. The (lessee, licensee, permittee, etc.) for himself, his heirs, personal representatives, successors in interest, and assigns, as a part of the consideration hereof, does hereby covenant and agree (in the case of lease add "as a covenant running with the land") that in the event facilities are constructed, maintained, or otherwise operated on the said property described in this (lease, license, permit, etc.) for a purpose for which a DOT program or activity is extended or for another purpose involving the provision of similar services or benefits, the (lessee, licensee, permittee, etc.) shall maintain and operate such facilities and services in compliance with all other requirements imposed pursuant to Title 49, Code of Federal Regulations, DOT, Subtitle A, Office of the Secretary, Part 21, Nondiscrimination in Federally-Assisted Programs of the Department of Transportation- Effectuation of Title VI of the Civil Rights Act of 1964, and as said regulations may be amended.
2. The (lessee, licensee, permittee, etc.) for himself, his personal representatives, successors in interest, and assigns, as a part of the consideration hereof, does hereby covenant and agree (in the case of leases add "as a covenant running with the land") that: (1) no person on the grounds of race, color, or national origin shall be excluded from participation in, denied the benefits of, or be otherwise subjected to discrimination in the use of said facilities, (2) that in the construction of any improvements on, over, or under such land and the furnishing of services thereon, no person on the grounds of race, color, or national origin shall be excluded from participation in, denied the benefits of, or otherwise be subject to discrimination, (3) that the (lessee, licensee, permittee, etc.) shall use the premises in compliance with all other requirements imposed by or pursuant to Title 49, Code of Federal Regulations, Department of Transportation, Subtitle A, Office of the Secretary, Part 21, Nondiscrimination in Federally-Assisted Programs of the Department of Transportation- Effectuation of Title VI of the Civil Rights Act of 1964, and as said Regulations may be amended.
3. That in the event of breach of any of the above nondiscrimination covenants, City of Phoenix shall have the right to terminate the (lease, license, permit, etc.) and to reenter and repossess said land and the facilities thereon, and hold the same as if said (lease, license, permit, etc.) had never been made or issued. This provision does not become effective until the procedures of 49 CFR Part 21 are followed and completed including expiration of appeal rights.
4. (Lessee, Licensee, Permittee, etc.) shall furnish its accommodation and/or services on a fair, equal and not unjustly discriminatory basis to all users thereof and it

shall charge fair, reasonable and not unjustly discriminatory prices for each unit of service; PROVIDED, THAT the (lessee, licensee, permittee, etc.) may be allowed to make reasonable and nondiscriminatory discounts, rebates or other similar type of price reductions to volume purchasers.

5. Non-compliance with Provision 4 above shall constitute a material breach thereof and in the event of such non-compliance the City of Phoenix shall have the right to terminate this lease (agreement, contract, etc.) and the estate hereby created without liability therefore or at the election of the City of Phoenix or the United States either or both said Governments shall have the right to judicially enforce Provisions.
6. (Lessee, Licensee, Permittee, etc.) agrees that it shall insert the above five provisions in any (lease agreement, contract, etc.) by which said (lessee, licensee, permittee, etc.) grants a right or privilege to any person, firm, or corporation to render accommodations and/or services to the public on the premises herein (leased, licensed, permitted, etc.)
7. The (lessee, licensee, permittee, subtenant, etc.) assures that it will undertake an affirmative action program as required by 14 CFR Part 152, Subpart E, to insure that no person shall on the grounds of race, creed, color, national origin, or sex be excluded from participating in any employment activities covered in 14 CFR Part 152, Subpart E. The (lessee, licensee, permittee, etc.) assures that no person shall be excluded on these grounds from participating in or receiving the services or benefits of any program or activity covered by this subpart. The (lessee, licensee, permittee, etc.) assures that it will require that its covered suborganizations provide assurances to the (lessee, licensee, permittee, etc.) that they similarly will undertake affirmative action programs and that they will require assurances from their suborganizations, as required by 14 CFR 152, Subpart E, to the same effort.
8. The City of Phoenix reserves the right to further develop or improve the landing area of the airport as it sees fit, regardless of the desires or view of the (lessee, licensee, permittee) and without interference or hindrance.
9. The City of Phoenix reserves the right, but shall not be obligated to the (lessee, licensee, permittee, etc.) to maintain and keep in repair the landing area of the airport and all publicly owned facilities of the airport, together with the right to direct and control all activities of the (lessee, licensee, permittee, etc.) in this regard.
10. This (lease, license, permit, etc.) shall be subordinate to the provisions and requirements of any existing or future agreement between the City of Phoenix and the United States, relative to the development, operation or maintenance of the airport.

11. There is hereby reserved to the City of Phoenix, its successors and assigns, for the use and benefit of the public, a right of flight for the passage of aircraft in the airspace above the surface of the premises herein (leased, licensed, permitted). This public right of flight shall include the right to cause in said airspace any noise inherent in the operation of any aircraft used for navigation or flight through the said airspace or landing at, taking off from or operation on the Sky Harbor International Airport, Phoenix Goodyear Municipal Airport, or Phoenix Deer Valley Municipal Airport.
12. (Lessee, Licensee, Permittee, etc.) agrees to comply with the notification and review requirements covered in Part 77 of the Federal Aviation Regulations in the event future construction of a building is planned for the (leased, licensed, permitted) premises, or in the event of any planned modification or alteration of any present or future building or structure situated on the (leased, licensed, permitted) premises.
13. The (lessee, licensee, permittee) by accepting this expressly agrees for itself, its successors and assigns that it will not erect nor permit the erection of any structure or object, nor permit the growth of any tree on the land leased hereunder above the mean sea level elevation for: (1) Phoenix Sky Harbor International Airport, 1,132 feet; (2) Phoenix Goodyear Municipal Airport, 969 feet; (3) Phoenix Deer Valley Municipal Airport, 1,475 feet. In the event the aforesaid covenants are breached, the owner reserves the right to enter upon the land (leased, etc.) hereunder and to remove the offending structure or object and cut the offending tree, all of which shall be at the expense of the (lessee, licensee, permittee).
14. The (lessee, licensee, permittee, etc.) by accepting this (lease, license, etc.) agrees for itself, its successors and assigns that it will not make use of the (leased, etc.) premises in any manner which might interfere with the landing and taking off of aircraft from the Airport or otherwise constitute a hazard. In the event the aforesaid covenant is breached, the owner reserves the right to enter upon the premises hereby (leased, etc.) and cause the abatement of such interference at the expense of the (lessee, licensee, permittee).
15. It is understood and agreed that nothing herein contained shall be construed to grant or authorize the granting of an exclusive right within the meaning of Section 308a of the Federal Aviation Act of 1958 (49 U.S.C. 1349a).
16. This (lease, license, permit) and all the provisions hereof shall be subject to whatever right the United States Government now has or in the future may have or acquire, affecting the control, operation, regulation and taking over of said airport or the exclusive or non-exclusive use of the airport by the United States during the time of war or national emergency.

**II. CITY OF PHOENIX AFFIRMATIVE ACTION
CONTRACTUAL PROVISIONS**

17. (Lessee, Licensee, Permittee, etc.) shall at all times comply with the requirements of City of Phoenix Ordinance No. G-1372, as amended by Ordinance No. G-1616 which in part states: "Any supplier in performing under this agreement, shall not discriminate against any worker, employee or member of the public because of race, creed, color, religion, sex or national origin, nor otherwise commit an unfair employment practice. The supplier will take affirmative action to ensure that applicants are employed, and that employees are dealt with during employment without regard to their race, creed, color, religion, sex or national origin. Such action shall include but not be limited to the following: employment, upgrading, demotion or transfer; recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship.

"The attention of all suppliers, lessees, or use permittees is called to Ordinance No. G-881, passed October 8, 1968; Ordinance No. G-1080, passed April 6, 1971; and Ordinance G-1121, passed October 5, 1971."

**III. COMPLIANCE WITH THE IMMIGRATION REFORM
AND CONTROL ACT OF 1986 (IRCA) REQUIRED**

18. (Lessee, Licensee, Permittee, etc.) understands and acknowledges the applicability of the IRCA to him. Lessee, Licensee, Permittee, etc. agrees to comply with the IRCA in performing under this agreement and to permit City inspection of his personnel records to verify such compliance.

IV. TRANSACTIONAL CONFLICT OF INTEREST

19. The parties agree that the terms and conditions of Arizona Revised Statutes §38-511 are incorporated in this agreement.

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